

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
May 10, 2007**

**Hyatt Regency Orange County
11999 Harbor Boulevard
Garden Grove, California 92840
(714) 750-1234**

Thursday, May 10, 2007, beginning at 9:00 a.m.

Board Members Present: Edward Yu, Vice President; Gregg Brandow; James Foley; Robert Jones; Richard Lyons; Mike Modugno; Millicent Safran; and Patrick Tami.

Board Members Absent: Arthur Duffy, President, and Cindy Tuttle.

Board Staff Present: Cindi Christenson (Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Rita Lane (Liaison Deputy Attorney General); Gary Duke (Legal Counsel); and Debbie Thompson (Budget Analyst).

1. Roll Call to Establish a Quorum

The meeting was called to order by Vice President Yu at 9:05 a.m. Roll call was taken, and there was a quorum.

Mr. Jones arrived at 9:15 a.m.

2. Public Comment

Mr. Hess, SE, stated that he feels continuing education is very important and maybe if it was required, some of the “bad” engineers would be “flushed” out.

3. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Mr. Foley/Mr. Lyons moved to approve the Delinquent Reinstatements as follows:

ELECTRICAL

Jay J. Cain

Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Regulations Examination.

Gregory Forrest

Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

Thomas Lovelace

Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

MECHANICAL

David Mc Dowell

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

Wallace Ouse

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

PETROLEUM

Steven Eneydy

Reinstate applicant's petroleum license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

VOTE: 8-0, motion carried.

4. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Ms. Safran/Mr. Foley moved to approve the Amended Handout Comity List.

VOTE: 8-0, motion carried

MOTION: Mr. Foley/Dr. Brandow moved to approve the Temporary Civil Authorization for Ram P. Singal for a period of 180 days.

VOTE: 8-0, motion carried.

Ms. Safran stated that the Board needs to discuss talking to Legislature about changing the law to allow more than 180 days of Temporary Authorization. Vice President Yu directed that this item be placed on a future Board agenda.

5. 2007-2008 Strategic Plan (Possible Action)

MOTION: Ms. Safran/Mr. Foley moved to approve the 2007-2008 Strategic Plan.

VOTE: 8-0, motion carried.

6. Retention of Records on the Board's Website (Possible Action)

Mr. Duke reported on this item. Mr. Duke stated that since the printed version of Bulletin #31 cannot be changed, the article summarizing the disciplinary action taken against Dr. Joseph Odencrantz contained in Bulletin #31, which is available on the Board's website, should also not be changed. He stated that although the Board had expressed agreement with this determination at previous meetings, he recommended that the Board should formally vote on this issue because Dr. Odencrantz's attorney has questioned whether the Board made the determination.

Mr. Duke also advised that the Board should decide how long other items should remain on the website, including newsletters and minutes of previous Board meetings. Mr. Duke advised that staff had prepared recommended motions regarding Bulletin #31, the minutes, and the newsletters.

MOTION: Mr. Foley/Mr. Tami moved as follows:

Since the printed version of Bulletin #31 cannot be changed at this time, the article summarizing the disciplinary action taken against Dr. Joseph Odencrantz contained in Bulletin #31, which is available on the Board's website, will not be changed.

Minutes of past Board meetings shall be available on the Board's website for five (5) years following the date of the meeting. Information shall be included on the website advising interested parties on how they may obtain printed copies of older minutes.

The Board's newsletters/bulletins shall be available on the Board's website for five (5) years following the date of publication. In the event that the Board is unable to publish a bulletin for more than five (5) years, the last bulletin published will remain on the Board's website until the next one is published. Information shall be included on the website advising interested parties on how they may obtain printed copies of older bulletins.

VOTE: 8-0, motion carried.

Mr. Duke advised that the Board should also decide how long summaries of criminal actions that result from Board investigations remain on the Board's website. Ms. Eissler explained that, several years ago, when the Board decided that summaries of disciplinary actions and citations were to remain on the Board's website for five years, the summaries of criminal actions were overlooked. She recommended that, for consistency, the criminal action summaries should also remain on the website for only five years.

Mr. Jones expressed concern that removing the information would prevent the public from learning about the actions. Ms. Eissler advised that a statement would be included on the website that the information was available on the website for five years and that the public could contact the Board's Enforcement Unit for additional information, which is what is included for the disciplinary action and citation summaries.

MOTION: Mr. Foley/Ms. Safran moved that criminal action summaries will remain on the Board's website for five years from the date of conviction or until the matter is dismissed under Penal Code section 1203.4, whichever occurs first.

VOTE: 8-0, motion carried.

7. Administration

a. Fund Condition

Ms. Thompson reported on changes included in the Board's fund condition dated April 27, 2007:

- The year-end application revenue projection for FY 2006-07 decreased from \$3,632,000 to \$3,539,000.
- The year-end actual reimbursements for FY 2006-07 increased from \$40,418 to \$44,000.
- The year-end renewal revenue projection for FY 2005-06 decreased from \$5,322,000 to \$5,127,000.
- The total year-end revenue received by the Board through March 31, 2007, was \$8,447,341, which is \$223,049 more than the prior FY 2005-06.

Ms. Thompson reported that the Board still projects to maintain an average of 4.5 months in fund reserve for the next three fiscal years.

b. Fiscal Year 2006-07 Budget

Ms. Thompson reported that of the \$8,297,839 budget allocation for FY 2006-07, Board staff project a \$8,225,259 expenditure which will leave a \$78,405 year-end balance.

c. Fiscal Year 2007-08 Budget Change Proposals

Ms. Thompson reported that the Board's two BCPs were approved on consent at the recent Senate and Assembly budget hearings.

d. Fiscal Year 2008-09 Budget Change Proposals

Board staff added another FY 2008-09 BCP to redirect the Land Surveyor contract funds to establish a Land Surveyor position. The BCPs are due to DCA for review June 5, 2007 and to Department of Finance by mid-September, 2007.

e. Land Surveyor Position for FY 2008-09

Board staff met with DCA and a representative from Department of Personnel Administration (DPA) on March 29, 2007 to discuss the concept and whether other easier and less time-consuming alternatives would meet the Board's needs. DPA recommended the Board amend the Board's existing Senior Engineer Registrar (SER) specifications to include minimum qualifications for a licensed land surveyor. This alternative will allow the Board to use the existing State Personnel Board SER specifications rather than create a entirely new classification for one Land Surveyor position. This alternative will also require less time. Once the amendments are made, the revised SER classification specifications need to be approved by SPB after which the Board can initiate a new test to update the hiring list.

f. Publications Review

Ms. Eissler reported that the Enforcement Bulletin is due to be sent out in May or June of 2007. Ms. Eissler reported that once DCA has provided final approval, the Bulletin will go to the printer.

g. Applicant Direct Payment of National Exam Fees to NCEES

Ms. Thompson reported that Board staff has provided NCEES with exam site locations and statistics on the Board's exam population to review. NCEES indicated it may take two to three months time for them to determine if they can administer our state-specific exams in addition to the national exams. NCEES indicated that, in the event they do administer all the Board's exams, they would try to decrease the exam population per exam site by adding more exam sites. Also, NCEES will be responsible for exam site contracts and hiring proctors in the event they administer all the Board's exams.

8. Enforcement

Ms. Eissler reported that Sally Strubinger, Lead Enforcement Analyst, will be retiring the end of June.

9. Legislative

a. Discussion of Proposed Legislation for 2007, including but not limited to, AB 1025, AB 1393, SB 355, SB 374, SB 618, SB 721, and SB 1047 (Possible Action)

Ms. Christenson reported on the information contained in the agenda.

MOTION: Ms. Safran/Mr. Jones moved to oppose AB 1025; this bill prohibits any licensing entity (board) within the Department of Consumer Affairs (DCA) from denying, revoking, or suspending a license based on a criminal conviction that has

been withdrawn, or a guilty verdict that has been set aside, that results in the dismissal of an accusation by the court.

VOTE: 8-0, motion carried.

MOTION: Mr. Foley/Mr. Jones moved to watch AB 1393; this bill, as of January 1, 2009, would require any state agency that publishes an Internet Web site to include on the homepage of that site specified information that is not exempt from disclosure under the California Public Records Act (CPRA) about how to contact the agency, how to request records under the act, and a form for submitting online requests.

VOTE: 8-0, motion carried.

MOTION: Mr. Foley/Mr. Lyons moved to watch SB 374; Military service benefits; this bill would require every board, bureau, and commission within DCA to waive the initial license fee and renewal fee for any license, certificate, or registration issued, under the authority of that board, bureau, or commission to a qualified member, or the spouse of a qualified member, if specific requirements are satisfied.

VOTE: 8-0, motion carried.

MOTION: Ms. Safran/Mr. Jones moved to watch SB 618; this bill would require state agencies to maintain all of its records in an electronic format, no later than January 1, 2010.

VOTE: 8-0, motion carried.

MOTION: Mr. Lyons/Mr. Jones moved to watch SB 721; this bill would require every state agency to establish and implement a succession plan by January 1, 2010.

VOTE: 8-0, motion carried.

MOTION: Mr. Jones/ Mr. Modugno moved to support SB 1047; this bill makes several non-controversial, minor, non-substantive or technical changes to various miscellaneous provisions pertaining to regulatory boards of DCA.

VOTE: 8-0, motion carried.

b. Regulation Status Report

Ms. Christenson reported on information contained in the agenda.

10. Technical Advisory Committee TAC Reports

a. Land Surveyor TAC (Possible Action)

1. Log Book for Recording Land Surveyor Applicants' Experience

Mr. Tami reported that the LS TAC met and that they are sending forward the Log Book for review.

2. Work Plan

MOTION: Mr. Tami/Ms. Safran moved to approve the LS TAC Work Plan contained in the agenda.

VOTE: 8-0, motion carried.

b. Board Assignments to TACs (Possible Action)

There were no Board assignments.

c. Appointment of TAC Members (Possible Action)

MOTION: Mr. Foley/Mr. Jones moved to appoint Dr. D'Orazio, Mr. Eskijian, Mr. Mulligan, and Mr. Whiteside to a third term as members of the CE TAC, term to expire on June 30, 2009, and to appoint Mr. Kulakow to a second term as a member of the CE TAC, term to expire on June 30, 2009.

VOTE: 8-0, motion carried.

11. Liaison Reports (Possible Action)

a. ABET

No report given.

b. NCEES

Dr. Brandow is Treasurer of NCEES.

Mr. Tami reported on the Western Zone meeting in Oregon and wanted to emphasize how important it is that Board members attend these meetings.

c. Technical and Professional Societies

Mr. DeWitt of CELSOC & CSLA, thanked Mr. Tami and Mr. Lyons for attending their meeting and told them that they did an excellent job.

12. President's Report

Mr. Foley reported that he and Ms. Tuttle, the Nominating Committee, had not been able to meet yet, so the President and Vice President will remain as they are for now. Mr. Foley advised that the Nominating Committee would make its recommendations at the July Board meeting.

13. Executive Officer's Report

Ms. Christenson reported that Ms. Tuttle received her Medical Release three weeks ago and she has started her new job as County Tribal Coordinator for Yolo County. Ms. Christenson reported that Ms. Tuttle thanked everyone for all their support.

1. Administration Report

a. Executive Summary Report

No additional report given.

2. Personnel

a. New Hires

No New hires.

b. Vacancies

Ms. Christenson reported that our cashier, Jill Blalock will be retiring and Sally Strubinger from Enforcement will also be retiring. We will be recruiting for those positions in addition to the following positions: Office Technician, Enforcement Analyst, and a Staff Services Manager I.

3. Enforcement/Examination/Licensing

a. College Outreach

No reports to be given.

b. Report on Enforcement Activities

Ms. Eissler reported on this item in item #8.

c. Report on Examination Activities

Ms. Christenson reported that the April 2007 examination administration was the worst since she has been at the Board. San Mateo site had a roof that leaked and several books were destroyed, candidates were offered postponements due to not enough books. Also at the San Mateo site, LS Candidates were told to go to the wrong building and because of this, they were late to the start of the LS exam and were turned away and not allowed to take exam. Because of this error, a special LS exam was held for these candidates the following weekend in Monterey. San Diego site had problems with the microphone, and the 1-minute warning was not heard by all candidates. Ms. Christenson stated that there needs to be changes to make things run smoother at future examinations.

4. Publications/Website

a. Website Activity Statistics

No additional report to be given.

5. Other

a. DCA Update

Ms. Christenson announced that Ms. Carrie Lopez is the new Director of DCA.

b. COOP/COG Report

No report given.

c. iLicensing

No report given.

14. Approval of Board Travel (Possible Action)

No Board travel.

Dr. Brandow asked if any staff would be going to College Outreach; Ms. Christenson stated that it is on hold for now.

15. Other Items Not Requiring Board Action

Date of Next Board Meeting: July 26 & 27, 2007, Bay Area.

Ms. Eissler reported that there will be two hearings for Petition of Reinstatement.

Vice President Yu thanked everyone and announced that this would be his last meeting due to other obligations.

16. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]

a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)

b. Michael Z. Yevtovich v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS105225

d. Monique S. Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160

17. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically; Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492; Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996); Michael Z. Yevtovich v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS105225; Monique S.

Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160

Ms. Christenson reported that the Board approved the successful and unsuccessful appeals of the October 2006 Professional Geotechnical Engineering Examination and the October 2006 Professional Structural Engineering Seismic Examination and the National Structural II appeals.

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the examinations.

Ms. Christenson reported that the Board adopted the Stipulations regarding Roy Anderson, Gregory Moutinho, Gary Timothy Wong; the Board adopted the Proposed Decision regarding Andrew Burg; and the Board took action regarding the Petition for Reconsideration from Richard Godina.

18. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

a. Approval of the Minutes of the March 23, 2007, Board Meeting

b. Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Foley/Mr. Tami moved to approve the consent calendar with the following correction to the Minutes; Vice President Yu was present at the March 23, 2007 Board meeting.

VOTE: 8-0, motion carried.

19. Adjourn

The Board adjourned at 11:35 a.m.

PUBLIC PRESENT

Tom Stout, CSPE/CLCPE

William R. Hofferer, CLSA

Steve Hao, Caltrans

Jaya Gilster, PECG

Richard Hess, S.E.

Bob DeWitt, CELSOC